

## HEARING EXAMINER MINUTES – AUGUST 25, 2005

### CALL TO ORDER:

The August 25, 2005 meeting was convened by the Hearing Examiner, Ron McConnell, at 9:09 a.m. Ron Hanson and Nancy Cox represented the Department of Planning and Community Development.

### **PUBLIC HEARING: Cedar Park Assembly of God Preschool Master Plan, File No. ZON04-00022**

Hearing Examiner Ron McConnell entered the Staff Report with seven attachments as Exhibit A.

Planner Ron Hanson advised the City had not received any additional letters since the Staff Report was prepared. One letter had been received from an adjacent property owner inquiring about queuing on the street and potential safety issues if emergency vehicle had difficulty exiting the fire station north of the site. Mr. Hanson advised the Fire Department indicated the cars generated by the existing school have never created an issue for emergency vehicles exiting the station.

Hans Brinkerhoff, representing Cedar Park Assembly, 10402 Kay Way, Mukilteo, WA 98275, advised he had reviewed the staff report and concurred with staff's conclusion that the existing preschool use was in compliance with Kirkland's standards.

Ben Waggoner, 16300 112<sup>th</sup> Avenue NE, Bothell WA 98011, referred to staff's recommendation that prior to issuance of a final certificate of occupancy for the school, the applicant shall provide documentation from the Department of Social and Health Services (DSHS) that the preschool use is in compliance with the applicable requirements, explaining Cedar Park was not required to obtain DSHS approval. He referenced WAC 388.151.020 and RCW 74.15.020(2)(h), explaining a preschool was not included in the definition; therefore, the preschool would be unable to obtain the required documentation.

Mr. McConnell explained the RCW prevailed over local zoning code. He would research the provisions and provide a decision within eight days.

Mr. McConnell closed the public hearing at 9:13 a.m.

### **PUBLIC HEARING: Ray Robinson Wetland Buffer Modification and Variance Request, File No. ZON05-00003**

Hearing Examiner Ron McConnell advised he had visited the site. Due to technical difficulties with the display equipment, Planner Ron Hanson presented, reviewed the plans and responded to neighbors' questions at the table in the presence of Mr. McConnell. The applicant was not present.

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Mr. Hanson explained the applicant was requesting, 1) approval of a 12-foot front yard setback variance for the main house and garage from the required 20 feet to 8 feet, 2) an 11-foot front yard variance for the covered porch from the required 13 feet to 2 feet, and 3) a variance to reduce the number of required on-site parking stall by one stall. He noted the homeowner could park in the driveway and there was currently adequate space to park additional vehicles on the right-of-way as it was only partially developed. The applicant also proposes to reduce the required 75 foot wetland buffer to 50 feet through enhancement of a Class II wetland. A maximum of a one-third reduction is allowed (25 feet).

Mr. Hanson briefly described the wetland enhancement proposed by the applicant, advising the City's Wetland Biologist reviewed the enhancement plan and recommended several changes. As part of the building permit process, the enhancement plan would need to be revised to reflect these changes. Mr. Hanson identified the 50 foot buffer on the site plan. He pointed out without the setback modifications and the wetland buffer modification, there was very little developable land on this parcel.

For the neighbors, Mr. McConnell explained that because most of the easy-to-develop land has already been developed, either redevelopment or development of more difficult land is occurring. He explained the courts have held that the City must allow the owner of a legally defined lot reasonable use of the land. In a single family zone, reasonable use is a single family house and the Kirkland Zoning Code provides a process for variances and modifications.

Mr. Hanson explained the Kirkland Zoning Code also required a 10-foot building setback from the buffer. The applicant proposes a deck that would intrude 5 feet into the 10 foot building setback which is a permitted use. The applicant also proposes a bay window and second floor balcony in 5 feet of the 10 foot building setback which the code did not allow. He explained the applicant proposes to build a two bedroom, two bath home, a total of 1,600 square feet including the garage.

J. R. Pettis, 12708 NE 91<sup>st</sup> Lane, Kirkland WA 98033, asked how close the deck could be to the buffer. Mr. Hanson answered within 5 feet.

Steve Shuzmate, 12631 NE 90<sup>th</sup> Street, Kirkland WA 98033, asked whether it would be setting a precedent to reduce the setback from the street that much. Mr. Hanson referred to variances approved for nearby residences, acknowledging they were not as large but the sites were larger.

Rick Martz, 12618 NE 90<sup>th</sup> Street, Kirkland, WA 98033, commented he had never seen a house like this in Kirkland; most of the houses in the area were 2,500 – 3,000 square feet with 3-car garages. Mr. Hanson referred to the cottage developments that have been approved in areas of Kirkland.

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David Clark, 12715 NE 90<sup>th</sup> Street, Kirkland WA 98033, asked whether the city considered the best use of lots adjacent to wetland, commenting a pocket/neighborhood park may be a better use of this land. Mr. McConnell responded the city would need to purchase the land if it were to be used as a park.

Mr. Martz remarked the purchase price of the land was \$25,000. Mr. McConnell pointed out it was a legally designated lot and the city was required to allow reasonable use. He noted this was a very small house; if a larger house were proposed, it would intrude further into the wetland.

Mr. Pettis commented on the importance of protecting the investment of existing residents who have 20-foot setback from the street. Mr. Shuzmate expressed concern with the size, shape and position of the house on the lot, anticipating the owner would not park in the driveway but would park on the street in front of his house.

Mr. Martz advised the ground was very wet in that area, they were required to install a sump pump on their lot which is at a higher elevation than this lot. Mr. McConnell advised any requirement for a sump pump would occur at the building permit stage.

Mr. McConnell entered the Staff Report as Exhibit A. He entered a Client Advisory Form from All Sound Inspections as Exhibit B.

Mr. Martz advised there was also a seasonal stream in that area. Mr. Hanson identified a stream on the plans that was located to the north of the site. Mr. Martz identified the location of a seasonal stream. Mr. Hanson advised the Wetland Biologist had identified waterways and wetland on the site.

Mr. McConnell entered an email from Steve Shuzmate as Exhibit C, a letter from Prosper & Bruce Kasrel as Exhibit D and a letter from Sheri Larson as Exhibit E. Mr. McConnell planned to visit the site again after today's hearing. He cautioned the neighbors that he could not speak with them outside the hearing. He would provide his decision to the city within two weeks and the city would provide all a copy of his decision to all parties of record.

Mr. McConnell advised that although his decision was appealable to the City Council, this was the only open record hearing and the City Council's hearing would be a closed record hearing on information contained in the record. He explained the Regulatory Reform Act adopted by the State Legislature in 1995 allowed for only one open record hearing and in this instance, the Hearing Examiner conducted the open record hearing with a closed record appeal at future levels.

For Mr. Shuzmate, Mr. Hanson explained the city could not require frontage improvements for development on an existing lot.

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Mr. Martz inquired whether the city had any plans to widen/improve the right-of-way in the future. Mr. Hanson answered that in his discussion with Public Works, they indicated it was not on the Capital Improvement Plan at this time and it could be years before the street was improved with curb, planting strip and sidewalks.

Mr. McConnell remarked this street was not a collector or an arterial and did not carry a great deal of traffic. Mr. Clark agreed average traffic volumes were not great but traffic from City Church and Costco on Sundays was significant.

Mr. Pettis asked whether the porch could be converted to a carport. Mr. McConnell answered it was not big enough. Mr. Hanson advised the code did not allow any increase in the height.

Mr. Shuzmate inquired about the square footage of the garage. Mr. Hanson answered the footprint of the house/garage was 780 feet, the garage was approximately 10 x 20 feet.

Mr. Shuzmate remarked the house was awkward and unattractive to the neighborhood. Mr. Martz anticipated this house would negatively impact the value of other houses in the neighborhood. He pointed out the house would block his view of the greenbelt across the street from his house.

Mr. Clark expressed concern that if a house could be squeezed onto this lot, a house could also be built on the lot across the street from his house. He noted that lot was zoned low density residential and the Sensitive Areas map identifies it as a wetland. Mr. Pettis inquired about the extent of the wetland in that area. Mr. Hanson offered to review the Sensitive Areas map with the neighbors after the hearing, explaining the Sensitive Areas map identified a general area and more specific delineation occurred when a development application was proposed.

Mr. McConnell advised his decision would be available in two weeks.

### **ADJOURNMENT:**

Hearing no further testimony, the Hearing Examiner declared the hearing closed at 9:52 a.m.

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Nancy Cox, Development Review Manager  
Department of Planning and Community Development

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Recording Secretary: Jeannie Dines, NORTHSORE BUSINESS SERVICE